

REMARKS

Claims 1, 19, 29, and 30 have been amended. Claims 1-19 and 21-30 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claim 1 is objected to because the claim recites the term “operable” in place of the term “openable.” The Applicant has amended the claim to change the word “operable” to “openable” as suggested by the Examiner. Accordingly, Applicant requests that the objection be withdrawn.

Claims 1-4, 7-9, 11, 14, 15, 18, 19, 21, 23, and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,774,615 to Lim et al. (“Lim”) in view of U.S. Patent No. 4,873,975 to Walsh et al. (“Walsh”) and in further view of U.S. Patent No. 5,188,638 to Tzakis and U.S. Patent No. 3,357,432 to Sparks. The rejection is respectfully traversed.

Claim 1 recites a “removable electrocoagulative anastomosis device for the production of an electrocoagulated anastomosis between first and second hollow organs, the device comprising: an inner sleeve ... and an outer sleeve ... each of the inner and outer sleeves comprises an electrical connector coupled to electrically conductive material, wherein the electrical connectors of the inner and outer sleeves can be connected to an external current or voltage source so that a current or a voltage can be applied to the electrically conductive material of the inner and outer sleeves to form the electrocoagulated anastomosis.”

Claim 19 recites a “removable electrocoagulative anastomosis system for production of electrocoagulated anastomoses between hollow organs, comprising: ...[an] inner sleeve compris[ing] an inner sleeve electrically conductive portion that extends substantially entirely around said outer circumference of said inner sleeve and an inner sleeve electrical connector, [and an] outer sleeve compris[ing] an outer sleeve electrically conductive portion that extends substantially entirely around an inner circumference of said outer sleeve and an outer sleeve electrical connector.”

Lim is directed toward a device for connecting the ends of tubular organs using a connecting ring and a fastening means where the ring and fastener are made from inert materials. Lim Abstract. Lim fails to teach or suggest a device capable of production of an electrocoagulated anastomosis as recited in claim 1 and 19. Lim further fails to teach or suggest an inner sleeve and an outer sleeve where “each of the inner and outer sleeves comprises an electrical connector coupled to electrically conductive material,” as recited by claim 1, and an “inner sleeve compris[ing] an inner sleeve electrically conductive portion ... and an inner sleeve electrical connector, [and an] outer sleeve compris[ing] an outer sleeve electrically conductive portion ... and an outer sleeve electrical connector,” as recited by claim 19. Lim does not make any reference to its connecting ring and fastening means having an electrical connector, or that both the ring and the fastening means would have an electrically conductive portion. In fact, Lim states that having metal rings and fastening means is a drawback as it can lead to pressure necrosis. Lim, col. 1, lines 46-51. Instead, Lim suggests using hydrophilic gels for production of the rings and fastener. Lim, col. 2, lines 46-53. That said, Lim does disclose that the fastener could be made of metal, but never discloses that the rings would be made of metal. Lim, col. 4, lines 59-61.

The Office Action uses Walsh to allege that it would be obvious to make the ring of Lim out of metal or an electrically conductive material because Walsh discloses a metal ring. Office Action, page 3. Yet the Office Action fails to show why someone skilled in the art would choose to modify the disclosed ring of Lim by making the ring from metal when Lim teaches against using metal. Applicant acknowledges that the Office Action has stated that a metal component would provide a stronger connector, but this modification would render Lim unsatisfactory for its intended purpose. MPEP § 2143.01(V); *In re Gordon*, 733 F.2d 900, (Fed. Cir. 1984). Accordingly, someone skilled in art would not modify Lim with the teachings of Walsh. Also, the Office Action has failed to show why someone skilled in the art would use the teachings of Lim to produce “a device capable of production of an electrocoagulated anastomosis,” as recited in claims 1 and 19, when Lim does not mention electrocoagulated anastomosis and teaches away from a basic structure that would allow for electrocoagulated anastomosis.

As discussed above Lim does not disclose or suggest all of the limitations of claims 1 and 19. Walsh, which has been cited for teaching inner and outer sleeves that are metal, does not cure the deficiencies of Lim. Further, the combination of Lim and Walsh is improper because Lim does not want to use a metal ring like the one in Walsh. Also, Tzakis and Sparks, which have been cited for teaching inner and outer sleeves that are formed with two halves or openable, do not cure the deficiencies of Lim and Walsh. Thus, claims 1 and 19 are allowable over the combination of Lim, Walsh, Tzakis and Sparks. Claims 2-4, 7-9, 11, 14, 15, 18, 21, 23, and 25 depend from claims 1 and 19 and are allowable at least for the same reasons. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lim in view of Walsh and in further view of U.S. Patent No. 3,435,823 to Edwards. The rejection is respectfully traversed. Claims 5 and 6 depend from claim 1 and are patentable over Lim and Walsh for at least the reasons mentioned above. Edwards, which has been cited for teaching a sleeve that is pivotable with catch elements, does not cure the deficiencies of Lim and Walsh discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claims 12, 13, 16, 17, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lim in view of Walsh and in further view of U.S. Patent No. 5,649,937 to Bito et al. ("Bito"). The rejection is respectfully traversed.

Claims 12, 13, 16, 17, and 22 depend from claims 1 and 19 and are patentable over Lim and Walsh for at least the reasons mentioned above. As explained below, Bito does not cure the deficiencies of Lim and Walsh discussed above.

Bito discloses a fastener for fastening portions of organs where the fastener has a pin and hole, and wherein the pin is heated and deformed to secure the pin in the hole. Bito, Abstract. Bito describes a clip 1A made from a thermoplastic resin having a first leg 3a with a hole 5 and second leg 3b with a pin 4 so that the clip can be closed and the pin 4 will enter the hole 5. Bito, col. 6,

lines 42-50. In use, the clip 4 is attached to an organ using a clip applicator 10 that contains a heater 19 that is connected to an electric current. *See* Bito, col. 7, lines 30-33, 48-50. Once the clip 1A is placed on the organ, the heater 19 of the clip applicator 10 heats the pin 4 of the clip 1A to deform the pin 4 so that the clip 1A firmly clamps the organ. Bito, col. 6, lines 50-55. Thus, Bito does not disclose an “inner sleeve ... and an outer sleeve ... each of the inner and outer sleeves comprises an electrical connector coupled to electrically conductive material,” as recited by claim 1 and an “inner sleeve compris[ing] an inner sleeve electrically conductive portion ... and an inner sleeve electrical connector, [and an] outer sleeve compris[ing] an outer sleeve electrically conductive portion ... and an outer sleeve electrical connector,” as recited by claim 19. Thus, claims 12, 13, 16, 17, and 22 are allowable over the Lim, Walsh, and Bito combination. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claims 10, 24, and 26-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lim in view of Walsh and in further view of U.S. Patent No. 5,861,168 to Cooke et al. (“Cooke”). The rejection is respectfully traversed.

Claims 10, 24, and 26-28 depend from claims 1 and 19 and are patentable over Lim and Walsh for at least the reasons mentioned above. Cooke, which has been cited for teaching a stent structure made of metal and plastic, does not cure the deficiencies of Lim and Walsh discussed above. Thus, claims 10, 24, and 26-28 are allowable over the Lim, Walsh, and Cooke combination.


Claims 29 and 30 both recite an “inner sleeve electrical connector” and an “outer sleeve electrical connector.” As discussed above, Lim and Walsh do not disclose or suggest at least these features. Cooke, which has been cited for teaching a stent structure made of metal and plastic, does not cure the deficiencies of Lim and Walsh. Thus, claims 29 and 30 are allowable over the Lim, Walsh, and Cooke combination. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1073, under Order No. E7900.2001/P2001.

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